

REMARKS

Entry of the foregoing and still further reexamination and reconsideration of the subject application, as proposed to be amended, pursuant to and consistent with 37 C.F.R. § 1.116, are respectfully requested in light of the following remarks.

STATUS OF CLAIMS

Upon entry of this amendment, Claims 14, 15, 17, 26, 27, 37-42, 56-58, 61, 62, 64 and 67-70 will be in this application, with Claims 67-70 each being rewritten in independent form and the remaining claims being directly or indirectly dependent therefrom. Claims 1-12, 16, 18-25, 28-36, 43-54, 59-60 and 71-75 were previously cancelled while Claims 13, 55, 63, 65 and 66 are proposed to be cancelled by the foregoing amendment, without prejudice or disclaimer.

With respect to the rewriting of Claims 67-70, the following remarks are offered:

Claim 67 previously depended from independent Claim 13. Applicants have proposed to rewrite Claim 67 hereinabove to include the features of previous independent Claim 13. Previous Claim 13 is proposed to be cancelled.

Claim 68 previously depended from Claim 55, which in turn depended from independent Claim 13. Applicants have proposed to rewrite Claim 68 hereinabove to include the features of previous Claims 13 and 55. Previous Claims 13 and 55 are proposed to be cancelled.

Claim 69 previously depended from Claim 63, which in turn depended from independent Claim 13. Applicants have proposed to rewrite Claim 69 hereinabove to include the features of previous Claims 13 and 65. Previous Claims 13 and 65 are proposed to be cancelled.

Claim 70 previously depended from Claim 65, which in turn depended from Claim 55, which in turn depended from independent Claim 13. Applicants have proposed to rewrite Claim 70 to include the features of previous Claims 13, 55 and 65. Previous Claims 13, 55 and 65 are proposed to be cancelled.

It is clear from the foregoing that the amendments to Claims 66-70 are merely aimed at rewriting these claims in independent form to include all of the limitations of the claims from which they previously depended. The remaining amendments merely realign claim dependencies in light of the claims being cancelled. No new matter has been introduced and no new issues have been raised by the proposed amendments. Furthermore, for reasons set forth hereinbelow, it is believed that the foregoing amendment places all of the claims in allowable form. For at least these reasons, entry of the foregoing amendment is respectfully requested.

CLAIM FOR FOREIGN PRIORITY

The Examiner's acknowledgment of the claim for foreign priority and of the certified copy of the priority document is noted, with appreciation. In actuality, a copy of the certified copy of the French priority application was provided by the International Bureau in this national phase application.

CLAIM REJECTIONS/OBJECTIONS - 35 U.S.C. § 112

Applicants appreciate the Examiner's withdrawal of the previous claim objections and rejections under 35 U.S.C. §112.

CLAIM REJECTIONS - 35 U.S.C. § 103

Claims 13-15, 17, 26-27, 37-42, 55-58 and 61-66 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubinsztajn et al. U.S. Patent No. 5,510,430 in view of Bordone et al. WO 01/44349, and also as being unpatentable

over Kobayashi et al. U.S. Patent No. 5,527,873 in view of Bordone et al. WO 01/44349. In order to advance prosecution of this application, despite the fact that they do not agree with the Examiner's position, applicants have cancelled Claims 13, 55, 63, 65 and 66, but reserve the right to pursue the cancelled subject matter in a continuation application where the rejections will be dealt with. The remaining claims of those rejected, i.e., Claims 14, 15, 17, 26, 27, 37-42, 56-58, 61, 62 and 64, have been proposed to be amended to depend, directly or indirectly, from claims which were not rejected under 35 U.S.C. § 103(a); therefore, Claims 14, 15, 17, 26, 27, 37-42, 56-58, 61, 62 and 64 as proposed to be amended are free of the 35 U.S.C. § 103(a) rejections.

In view of the foregoing, it is believed that this amendment obviates the obviousness rejections in their entireties.

DOUBLE PATENTING

Claims 13, 26, 37, 41, 55, 58, 61-64 and 67 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting over Claims 12-34 of copending Appln. No. 10/509,071.

Claims 13, 55 and 63 are proposed to be cancelled above, obviating this provisional rejection in respect thereto. Claims 26, 37, 41, 58, 61, 62, 64 and 67 remain in this application. An appropriate terminal disclaimer is filed herewith with respect to commonly assigned copending Appln No. 10/509,071. It is noted that both applications were originally assigned by the inventors to RHODIA CHIMIE, and more recently assigned by RHODIA CHIMIE to BLUESTAR SILICONES FRANCE SAS. The assignments from the inventors were previously recorded in the USPTO;

the assignments from RHODIA CHIMIE to the present owner have been submitted for recordal concurrently herewith.

In view of the foregoing, the obviousness-type double patenting rejection based on copending Appln. No. 10/509,071 has been overcome, and the claims remaining in the application of those rejected on this basis should be allowed. Specifically, Claim 67 and its dependent claims and claims dependent from Claims 68 and 69 are free of this rejection. This is the only rejection outstanding against Claim 67, which has been rewritten in independent form. The dependent claims no longer depend from rejected claims. Thus, this rejection cannot be maintained against any of the claims now in this application.

ALLOWABLE SUBJECT MATTER/CLAIM OBJECTIONS

Claims 68-70 have been objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form to include all of the limitations of these claims and any intervening claims. These claims have been proposed to be amended in this manner, placing them and the claims which directly or indirectly depend from them in allowable form.

CONCLUSION

In view of the foregoing, it is submitted that the claims as proposed to be amended are in allowable form. Entry of the foregoing amendment and issuance of a Notice of Allowance are believed to be next in order and are earnestly solicited.

Respectfully submitted,

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